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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO.       |
|--|-------------|----------------------|-------------------------------|------------------------|
| 10/722,132   | 11/26/2003  | Gerald Duhamel       | P1068US00                     | 4651                   |
| 77130  | 7590        | 09/24/2008           |                               |                        |
| LABTRONIX CONCEPT<br>C/O BENOIT & CO INC.<br>2025 LIMOGES<br>LONGUEUIL, QC J4G 1C4<br>CANADA |             |                      | EXAMINER<br>DHILLON, MANJOT K |                        |
|  |             |                      | ART UNIT<br>3714              | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>09/24/2008       | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/722,132 | <b>Applicant(s)</b><br>DUHAMEL ET AL. |  |
|                              | <b>Examiner</b><br>MANJOT K. DHILLON | <b>Art Unit</b><br>3714               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-21, 23-34 and 36-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-21, 23-34 and 36-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/21/08 has been entered.

### ***Response to Amendment***

2. This office action is in response to applicant's response filed on 8/21/08. Applicant amends claims 6, 41 and 44 and responds to rejections. Claims 2-21, 23-34, and 36-44 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2-8, 12, 13, and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banyai (US 2001/0034262 A1).

Concerning claim 41, Banyai teaches a method of providing a participation game among a plurality of players **[0003]**, the method comprising the steps of **[0002]**: receiving from at least one of said players a play request to participate in said participation game **[0006]**; associating said game card to said play request **[0008/0034]**; associating a current draw result comprising at least two numbers to said play request **[0007]**; establishing a play outcome for said play request, based on comparison of said current draw result and said game card **[0009]**; and determining whether a game ending state is achieved based on said comparison, and where **[0010]**; if said game ending state is achieved, ending said participation game for all of said plurality of players **[0003]** by preventing association of said current draw result with a further play request **[0009/0011]**; while if said game ending state is not achieved, maintaining said current draw result in its current form thereby having said current draw result remaining composed of a constant amount of said numbers, and associating said current draw result with a further play request, wherein all of said play outcomes are

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based on said current draw result, and wherein said play request resulting in said game ending state being achieved, establishes a winning player of said participation game **[0010]**. Current draw result is interpreted as numbers/cards drawn in Banyai for the player who then keeps these same cards interpreted as a constant amount of said numbers. Further, play request, Banyai teaches “randomly drawing a first plurality of designations from such set” **[0008]**. First plurality of designations in the gaming art could be interpreted in different ways, such as drawing different numbers, whether that is balls or playing cards.

Concerning claim 44, Banyai teaches a system for handling game related information in relation with a participation game played among a plurality of players and ending upon determination of a winning player among said plurality of players, the system comprising **[0002]**: draw generation means for generating a current draw result, said current draw unchanging over said participation game thereby remaining composed of a constant amount of numbers until determination of said winning player **[0007/0010]**; a draw register for storing said current draw result throughout the play of the participation game until the winning player is determined **[0003/0004]**; card distributing means for providing said game card **[0008/00034]**; request handling means for handling a play request from at least one of said plurality of players, comprising associating said game card and said current draw result to said play request and transmitting said game card and said draw result to said player **[0007/0009/0010]**; and end-of-game evaluation means for evaluating fulfillment of an end-of-game criterion of said play request based on comparison of said game card to said current draw result

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before evaluating another play request, and, upon fulfillment of said end-of-game criterion, ending said game in addition of determining said player to be the winning player of said participation game, whereby the system processes play requests independently from each other **[0010]**. Current draw result is numbers/cards drawn in Banyai. Further play request, Banyai teaches "randomly drawing a first plurality of designations from such set" **[0008]**. First plurality of designations in the gaming art could be interpreted in different ways, such as drawing different numbers, whether that is balls or playing cards. Banyai teaches maintaining said current draw result in its current form as "continue randomly drawing designations from such set until the player's assigned first plurality of designations match designations drawn in steps c and e" **[0010]**.

Concerning claim 2, Banyai teaches said end-of-game criterion comprises a unique criterion associated with a unique end-of-game prize **[Fig. 1 items 24, 22]**.

Concerning claim 3, Banyai teaches identifying a winning game card upon a positive evaluation of said end-of-game criterion **[Fig. 1 items 18, 20]**.

Concerning claim 4, Banyai teaches signaling the end of said game upon the game ending state being achieved **[0007-0010/Fig. 1 item 20]**.

Concerning claims 5, and 6, Banyai teaches initiating the use of a new current draw result or game upon the game ending state being achieved and reception of a first play/game request for participation into said participation game **[0007-0010/Fig. 1 items 10, 20, 30]**. After the game is over, the player then starts over and places a wager.

Concerning claim 7, Banyai teaches generating said game card in response to said play request **[0006-0010]**.

Concerning claim 8, Banyai teaches randomly selecting said game card among a set comprising a plurality of game cards upon reception of said request for a play **[0034]**.

Concerning claims 12 and 13, Banyai teaches comparing said game card with current draw result against prize criteria; and awarding prizes to said winning player based on said comparison, further comprising associating at least one of said prize criteria with said end-of-game criterion **[0043]**.

Concerning claim 40, Banyai teaches said participation game starts upon reception of a first play request in relation with said participation game **[Fig. 1 item 10]**. The player places a game wager as a first game request.

Concerning claim 42, Banyai teaches wherein the step of receiving from at least one of said players a play request is performed after the step of maintaining said current draw result in its current form when said game ending state is not achieved **[0006-0010]**.

Concerning claim 43, Banyai teaches wherein the method is performed at least twice, each time the method being performed being over reception of at least one said play request **[0006-0010]**.

6. Claims 8-11, 14-21, 23-34, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banyai (US 2001/0034262 A1) in view of Itkis et al. (US Patent Publication 2002/0094860, hereinafter "Itkis") and the Kentucky State Gaming

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Regulations. Banyai lacks teaching details of card storage means, validation methods, and communication with central server. The publication to Itkis discloses a fully automated bingo session.

Regarding at least claims 8-11, Itkis discloses randomly selecting said game card among a set comprising a plurality of game cards upon reception of said play request; generating and storing a set of game cards, wherein the generating a game card set further comprises flagging game cards of the game card set that fulfill said end-of-game criterion upon comparison of said game card to said current draw result, wherein the step of flagging game cards is performed before the step of storing said game card set **[0042/0057/0061]**.

Regarding at least claims 14, Itkis discloses unique end of game criterion associated with a unique prize, such as one prize amount for a simple BINGO and another prize amount for a specific pattern; identifying a winning game card, **[0014]**, issuing a prize and associating prize with end of game criterion, **[0014]**; positive end of game criterion signals the end of the game, worded a different way, the game state changes to "end of game", **[0014]**, positive end of game criterion starts a new game, **[0014]**, generating said game card in response to a request to play a game, **[0048]**.

Regarding at least claims 15 and 16, Itkis discloses wherein all steps of said method are performed in a central game distribution system, wherein at least one of the steps of said method is performed on a discrete gaming apparatus remotely in communication with a central game distribution system wherein at least one other step of the method is performed **[0012]**.



Regarding at least claims 17-20, Itkis discloses that players must validate their tickets to get a prize, this validation would determine that they are a winner; this validation completes that session for them; the validation process does not prevent new requests from taking place, the step of determining whether a game ending state is achieved further comprises registering said completion of said validation process **[0015/0016]**.

Regarding claim 21 Banyai does not explicitly disclose limiting the time for game validation. The Kentucky State Gaming Regulations not only disclose, but also mandate that lottery tickets will have limited time for validation. 154A.110 (2) (e). It would be obvious to one of ordinary skill in the art at the time of the inventions to combine the matching number game of Banyai with the Kentucky State Gaming Regulations, as law would require it.

Regarding at least claims 23-27 and 29-32, Itkis discloses a draw communication means for handling communication of current draw result and card drawing means, **[Fig. 1 items 2, 9, 33, 44, 129]**; card communication means, **[Fig. 9]**; archiving means for archiving distributed play information, **[Fig. 9 items 4, 38, 40]**; card storage and distribution means for storing a card set comprising a plurality of cards ready to be associated with play requests, **[Fig. 9 items 4, 38, 33]**; card generation means, **[0042]**; the system comprises a plurality of separate physical entities, and draw generating means and said request handling means each form a distinct one of said separate physical entities, **[Fig. 1 item 2]**; draw generation means is a bingo blower, **[Fig. 1 Item**

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**9]**; prize evaluation means, remotely connected to request handling means, **[Fig. 1 Item 2]**.

Concerning claim 28, Itkis does not explicitly disclose preventing duplicate cards. The Kentucky State Gaming Regulations has a specific rule for when two players are both owed a prize, that they must split the winnings. 154A.110 (2) (d). Itkis discloses in 0017 that it is important and a goal of the invention to attract players to the casino. It would be obvious to one of ordinary skill in the art at the time of the invention to prevent the duplication of cards in the Itkis system in order to insure that "high-rollers" and other players will not have to share prizes with anyone and therefore better attract them to a certain casino.

Regarding claim 33, Itkis does not explicitly disclose monitoring jackpot prizes, however Itkis does disclose monitoring prizes in general on both a TV monitor as well as a portable monitor. It is well known in the art that a Jackpot prize or progressive prize is common to all forms of gaming, including keno, bingo, slots, and lotteries (such as power ball).

Concerning claim 34, Banyai teaches a plurality of draw registers with each one of them being associated with a different game title **[0030]**. The draw used for the game evaluation is kept in the draw register. Banyai discloses a video terminal including a video display for displaying the randomly drawn designations. It is well known to one skilled in the art that the data displayed on the video terminal including the drawn designations is contained in a computer memory that would include a draw register. Banyai also discloses physical draw registers in the form of ball blowers

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networked with a central computer and server for implementing the management of and accounting for the game including the requirements of the game pool. The requirements for winning the game pool would be the draw used for the game evaluation which are accounted for and managed in the central computer.

Regarding at least claims 36 and 37, Itkis discloses a criteria evaluations means, that can use criteria to validate a win, **[Fig. 1 Item 12 and 7]**, in communication with an end of game evaluation means, **[Fig. 1, Item 2]**.

Regarding claim 38, Itkis discloses the system further comprising idle means for idling the handling means until completion of the validation process **[0014/0049/0050]**.

Regarding claim 39, Itkis discloses constantly monitoring all active cards in a set for potential winning, if no card fulfills the end of game criteria, that state of the game is noted and subsequent draws occur until a card meets the end of game criteria based on said comparison of said game card to said current draw result **[0057]**.

It would have been obvious to combine the teachings of Banyai with the teachings of Itkis and the Kentucky State Gaming Regulations because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

**7. Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are

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applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Response to Arguments***

8. Applicant's arguments filed 8/21/08 have been fully considered but they are not persuasive. Applicant argues that the number of designations is not constant. However, Examiner disagrees. The player's cards remain constant throughout the game. The player request continues to draw cards which are compared to the player's cards; however, the player's cards throughout the game remain the same.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MANJOT K. DHILLON whose telephone number is (571)270-1297. The examiner can normally be reached on Mon. - Thurs., 7 AM - 6 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714

/M. K. D./  
Examiner, Art Unit 3714